

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.**

CIVIL APPLICATION NO.3013 OF 2004

IN

WRIT PETITION NO.1094 OF 2004

Smt. Krishna H. Bajaj, .. Applicant.

Vs

1. Bharatiya Bhavan Cooperative
Housing Society Ltd

and ors. .. Respondents.

Mr P.N.Mody i/b M/s Goenka Law Associates for the
applicant.

Mr P.M.Pradhan for the respondents.

CORAM : D.B.BHOSALE, J.

DATE : 26.10.2005.

PC:

1. Heard the learned counsel for the parties.

2. By this civil application, the applicant has
prayed for modification of the order passed by this

Court on 6.4.2004. By that order, the interim relief in terms of prayer clause (b) was granted. Prayer (b) reads thus:

"(b) That pending the hearing and final disposal of the writ petition, the execution and/or the implementation of the impugned judgment and order dated 28th October, 2003 signed and delivered on 24th December, 2003 be stayed."

3. That order was passed after hearing the learned counsel appearing for both sides. Mr Mody, learned counsel for the applicant, submits that though the interim relief was opposed by the learned counsel appearing for the applicant at that stage, the following judgments of the Supreme Court were not cited before the Court: (i) (1982) 2 Supreme Court Cases 199 and (ii) (2005) 1 Supreme Court Cases 705. According to Mr Mody, the facts of the present case are squarely covered by the aforesaid judgments and in view thereof, the interim order deserves to be modified as prayed for.

4. Mr Pradhan, learned counsel for the respondent, on the other hand, submits that the learned counsel appearing for both sides had argued, at the stage of

admission, for quite some time and after hearing both sides, the interim order was passed and merely because some judgments remained to be cited at that stage cannot be a ground for seeking modification of the order. He further submitted that in any case, the interim order need not be modified since it does not cause any prejudice to the applicant. He further submitted that the judgments relied upon by the applicant do not apply to the facts of the present case. Considering the submissions advanced by the learned counsel for the parties and keeping in view that the interim relief was granted after hearing learned counsel for both sides for considerable time, I do not deem it appropriate to modify the order. The interim relief prayed for was granted in favour of the respondent-society after taking the overall facts and circumstances of the case into consideration. Moreover, the interim order that was passed at the stage of admission would not cause any prejudice to the applicant. The civil application is, accordingly, rejected. In my opinion, ends of justice would be met if the hearing of the writ petition is expedited.

. Hearing of the writ petition is, accordingly, expedited. The civil application is disposed of.

(D.B.BHOSALE, J.)